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May 5, 2016.

VIA ECF FILING

HONORABLE ALISON J. NATHAN
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

**USDC SDNY
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DATE FILED: MAY 09 2016**

Re: Henkel v. Wagner et al
12 CV 04098 (AJN)

(Joint Letter pursuant to Memorandum and Order dated March 29, 2016)

Dear Judge Nathan

This is the Joint Letter, due May 16, 2016, in furtherance of the Memorandum & Order filed on March 29, 2016.

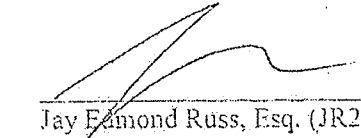
- a) The attorneys have engaged in settlement discussions. Prior to the Memorandum & Order, the attorneys and parties (and insurance carrier) engaged in private mediation, which was unsuccessful. Following the Memorandum & Order, Plaintiff made a written demand to the insurance carrier for the available insurance coverage of Five Million dollars. Through counsel for Defendants, the demand was declined. Defendants hereby express their position that the demand for the entire policy is excessive. Defendants are prepared to enter into a reasonable settlement. Plaintiff does not view the demand for the entire policy as excessive given the evidence of liability, evidence of damages, and the fact that in this diversity case pre-judgment interest is nine percent per annum. Plaintiff expresses its position that this case will likely not be settled before trial by jury.
- b) The suggested deadline for the Joint Pre-trial Report, pursuant to Rule 5.A of this Court's Individual Practices in Civil cases is September 15, 2016.
- c) Proposed briefing schedule for addressing whether the Court should allow or exclude all expert testimony on the merits of Plaintiff's counterclaim in the Gellman Action (namely, the expert testimony of Alice Stock, Esq and rebuttal expert testimony of Raymond

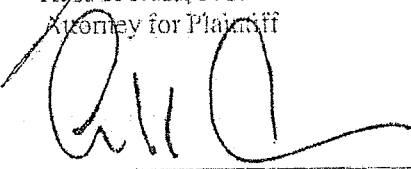
Nardo, Esq.). Simultaneous initial submissions on June 30, 2016. Simultaneous replies on July 30, 2016.

- d) Potential Trial dates; the week of January 9, 2017, or thereafter in January, 2017.
- e) The Court Conference presently scheduled for June 1, 2016 at 4:00 PM be adjourned to a September, 2016 date, and time, as designated by the Court.

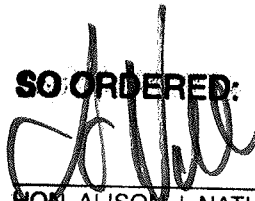
The Court adopts the schedule proposed by the parties, as outlined above. In light of the parties' ability to reach agreement on a pre-trial schedule, the conference currently scheduled for June 1, 2016, is hereby adjourned sine die. Trial in this matter will begin on January 16, 2017. A final pretrial conference will be held on January 9, 2017, at 2:00 p.m.

Respectfully and Jointly Submitted,


Jay Edmond Russ, Esq. (JR2258)
Russ & Russ, P.C.
Attorney for Plaintiff


Mark K. Anesh (MA8303)
Lewis Brisbois Bisgaard & Smith LLP
Attorney for Defendants

SO ORDERED:


HON. ALISON J. NATHAN
UNITED STATES DISTRICT JUDGE

5/9/16